



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[RTID 0648-XD197]

Fisheries of the Exclusive Economic Zone off Alaska; Scallop Specification Process Flexibility

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of fishery management plan amendment; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) submitted Amendment 18 to the Fishery Management Plan (FMP) for the Scallop Fishery off Alaska (Scallop FMP) to the Secretary of Commerce for review. If approved, Amendment 18 would revise timing requirements for Stock Assessment and Fishery Evaluation (SAFE) reports to allow more flexibility for non-annual assessments and to set scallop harvest specifications less frequently than on an annual basis. This would reduce the burden on staff and provide more time for the development of new stock assessment methods. Amendment 18 is intended to promote the goals and objectives of the Magnuson–Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Scallop FMP, and other applicable laws.

DATES: Comments must be received no later than [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2023-0094, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2023-0094 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Gretchen Harrington, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Records Office. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (*e.g.*, name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of proposed Amendment 18 and the draft Analysis prepared for this action may be obtained from <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Megan Mackey, 907-586-7228.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Act requires that each regional fishery management council submit any FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce (Secretary). The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP amendment, immediately publish a notice in the **Federal Register** announcing that the amendment is available for public review and comment. The Council has submitted Amendment 18 to the Secretary for review. This document announces that proposed Amendment 18 is available for public review and comment.

The scallop fishery in the exclusive economic zone off Alaska under the Scallop FMP is jointly managed by NMFS and the State of Alaska. The Council prepared the FMP under the authority of the Magnuson-Stevens Act, (16 U.S.C. 1801 *et seq.*). Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600 and 679.

The Scallop FMP delegates many management aspects of the scallop fishery to the State of Alaska but maintains Federal oversight. This authority is limited by the Magnuson-Stevens Act and the FMP. While the FMP includes scallop stocks off the coast of Alaska, including weathervane scallop (*Patinopecten caurinus*), reddish scallop (*Chlamys rubida*), spiny scallop (*Chlamys hastata*), and rock scallop (*Crassadoma gigantea*), the weathervane scallop is the only commercially targeted stock at this time. Commercial fishing for weathervane scallops occurs in the Gulf of Alaska, Bering Sea, and waters off the Aleutian Islands. There is currently no formal stock assessment model for the scallop fishery. Instead, the State sets guideline harvest levels (GHLs) informed by data collected through the scallop fishery observer program and fishery-independent scallop dredge surveys. Standardized catch per unit effort (CPUE) indices are estimated to account for depth, month, vessel, bed, and season variations.

Previously, the overfishing level (OFL) and acceptable biological catch (ABC) have been set based on the definition of optimal yield (OY). More recently, OFL and ABC have been based on the OY re-defined in 2012 (Amendment 13), when OY was re-defined as 0 to 1.29 million pounds (lb) (585 tons (t)) of shucked scallop meats to include estimated discards over the reference time frame. Annual specifications have been defined as: max OFL = OY, and ABC = 90 percent of OFL. Alaska scallop harvests have not exceeded OY in any year since it was first established.

In the absence of stock-size estimates, the status of the scallop stock relative to its overfished state is unknown. Consistent with assessments since the 2011/12 season, the

2022/23 OFL is set equal to the OY (1.284 million lb.; 582 t) as defined in the Scallop FMP and the 2022/23 ABC is set equal to the maximum ABC control rule value (90 percent of OFL or 1.156 million lb.; 524 t). Estimated total fishing removals (retained and discarded) for the 2021/22 and 2022/23 seasons were 311,978 lb (141.5 t) and 345,690 lb (156.8 t) of shucked meats, respectively (table 1). These estimates are less than 30 percent of the ABC/annual catch limit (ACL) and OFL; therefore, overfishing did not occur in 2021/22 or 2022/23.

Currently, the Scallop FMP requires the SAFE report to be created on an annual basis. The proposed management measure in Amendment 18 would amend the FMP to allow flexibility for non-annual assessments. This would remove prescriptive language dictating that SAFE reports are produced on an annual basis. Amendment 18 would give the Council flexibility in modifying the assessment cycle with the potential to set multi-year specifications, based on a period of no more than 3 years, that best suit the needs of the stock. If a formal stock assessment model is developed, or there is a decrease in estimated stock abundance, the Council could request that the development of the SAFE report revert to being reviewed annually.

NMFS is soliciting public comments on proposed Amendment 18 through the end of the comment period (see **DATES**). All relevant written comments received by the end of the applicable comment period will be considered by NMFS in the approval/partial approval/disapproval decision for Amendment 18 and addressed in the response to comments in the final decision. Comments received after the end of the applicable comment period will not be considered in the approval/disapproval decision on Amendment 18. To be considered, comments must be received, not just postmarked or otherwise transmitted, by the last day of the comment period (see **DATES**).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 31, 2023.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

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